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C O N F I D E N T I A L SECTION 01 OF 04 BANGKOK 001157

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SUBJECT: LOOKING FOR A WAY OUT OF THE POLITICAL IMPASSE:
THAI COMMITTEE EXAMINING CONSTITUTIONAL REFORM

REF: A. BANGKOK 1059 (REVOLUTIONARY RHETORIC)
[1](#)B. BANGKOK 1034 (LIFTS STATE OF EMERGENCY)
[1](#)C. BANGKOK 983 (ABHISIT BRIEFS DIP CORPS)
[1](#)D. OFFICE OF OPINION RESEARCH 4-10-09 ANALYSIS

BANGKOK 00001157 001.2 OF 004

Classified By: Ambassador Eric G. John, reason: 1.4 (b and d).

SUMMARY AND COMMENT

[1](#)1. (C) As was the case in 2008 during the People's Alliance for Democracy (PAD) extended occupation of Government House, there are a variety of possible options for the Thai political elite to pursue in negotiating its way out of the current political impasse: constitutional amendments; amnesty for "banned" politicians; an investigation into those responsible for political violence; and justice equally pursued for "yellow" and "red" protest leaders alike. Progress seems most likely on the first option; parliament has established a committee that appears likely to recommend amendments to Thailand's 2007 constitution. This effort appears to have Prime Minister Abhisit's support, though some senior figures in his Democrat party have signaled reluctance. The time frame for amendment is unclear, as are the range of provisions that the parliament will likely amend. Foes of former Prime Minister Thaksin seem to want to prevent the restoration of full political rights to the allies of Thaksin who were stripped of their political rights by Constitutional Court/Tribunal rulings during 2007 and 2008.

[1](#)2. (C) Comment: Visible commitment to constitutional reform could ease the pressure on Abhisit from Thaksin's camp, if the opposition Puea Thai and its "redshirt" allies believe they stand to gain from the process, but Thaksin himself operates according to his own calculus and will continue to be a wildcard from abroad. Abhisit's support for an amendment process may cause him to incur ill will from anti-Thaksin activists, but the ramifications may not prove dire for him. Most politicians (outside of some in the Democrat Party) appear to prefer that they be able to campaign without fear that a single party executive's transgressions will lead to the entire party's dissolution (as mandated by the current charter). Hard-core Thaksin opponents, including those in the Army, the courts, and the civil service bureaucracy, remain distrustful of populist

politicians and benefit by maintaining a system in which political parties are weak and vulnerable. The Ambassador and other Emboffs will continue meeting with representatives of all sides to elicit views on constitutional reform and repeat our frank advice that Thai politicians need to put aside narrow partisan concerns and seek solutions that benefit national interests by restoring stability in the political system and confidence in the country. End Summary and Comment.

"RECONCILIATION" COMMITTEE ESTABLISHED

¶3. (U) On May 1, House Speaker Chai Chidchob, acting in his capacity as President of the National Assembly (which consists of the House of Representatives and the Senate), appointed a Committee on Reconciliation for Political Reform and Study of Constitutional Amendment (the name is per our unofficial translation); a second committee will examine the political violence which erupted in mid-April. Chai's formal order establishing the committee did not state a timeframe for the committee's work, but it charged the committee with (among other undetermined duties) collecting and studying views on constitutional amendment, related legislation, and political reconciliation. The order cited agreement among some senior legislative figures (but no plenary vote) as the basis for Chai's action.

¶4. (C) Chai appointed Senator Direk Thuengfang to chair the committee. (Note: Direk was formerly a civil servant in the Ministry of Interior who served as Governor of Petchabun province. After he retired, he won election as Nonthaburi Senator in 2006, although the coup leaders abolished the wholly-elected Senate later that year. In 2008, the Senate

BANGKOK 00001157 002.2 OF 004

selection committee nominated Direk for royal appointment to the Senate. End note.) The committee consists of 40 prominent persons -- most members are legislators, but they also include a judge, some former legislators, and academics.

Pro-administration members of the committee outnumber opposition figures. Former Transportation Minister Santi Prompat appears to be the committee member with the closest ties to former Prime Minister Thaksin, but the highest-ranking committee member who is currently aligned with Thaksin is veteran politician Sanoh Thienthong.

¶5. (U) The committee began work on May 7 and set a goal of reporting to the legislature after 45 days, although it appears that self-imposed deadline could slip, based on May 11 comments by Speaker Chai. It remains unclear whether the committee's analysis or recommendations will carry special weight in political circles. The constitution specifies that amendment should take place through voting in plenary sessions of the House and Senate; it does not specify any role for ad hoc committees such as this one.

FOCUS ON COLLECTIVE GUILT, DISENFRANCHISED EXECUTIVES

¶6. (C) The 2007 constitution, drafted by a committee established by the 2006 coup leaders, entailed controversial changes to the political system created by 1997's constitution, including (among many others) the establishment of a partially-elected/partially-selected Senate and a shift from single-member to multi-member districts for the House of Representatives. Most of the current discourse about constitutional change, however, focuses on the mechanism which forces collective guilt on all party executives for the transgressions of any executives, and the status of former executives of political parties who lost their right to vote and thus to hold political office following the dissolution of their parties.

¶7. (U) Days after the coup leaders seized power in 2006, they issued a legally binding announcement covering, among other

matters, the dissolution of political parties for violations of the Political Party Law. This announcement stated that, if legal authorities order the dissolution of a political party, the members of that party's executive board shall lose their right to vote in elections for a period of five years, thereby also becoming ineligible to hold elected office or high government positions. In May 2007, the Constitutional Tribunal established by the coup leaders dissolved former Prime Minister Thaksin Shinawatra's Thai Rak Thai party, imposing the aforementioned sanction. The 2007 Constitution included a provision similar to that in the coup leaders' announcement; article 237 states in part "... if the Constitutional Court orders to dissolve (a) political party, the (party executives') right to vote... shall be suspended for the period of five years...."

¶18. (U) In December 2008, the Constitutional Court applied the sanction in article 237 to executives of the People's Power Party, the Chart Thai Party, and the Matchima Thippathai Party. In current discussions of constitutional reform, pro-Thaksin politicians advocate amending article 237. Although there is no draft language for such amendment under public discussion, one key issue for the reconciliation committee will be whether any amendment eliminating article 237 would also include an explicit amnesty for affected party executives.

DEMOCRATS DIVIDED

¶19. (C) While Abhisit has repeatedly made clear his openness to constitutional reform (see, for example, ref C), including a willingness to consider amnesty in some form, he has just as firmly asserted that those accused or convicted of criminal acts -- such as Thaksin -- could not be covered by such amnesty. Abhisit may sincerely believe that the exclusion of pro-Thaksin figures from formal political processes has created excessive resentment and deprives too many influential actors from feeling they have a stake in the

BANGKOK 00001157 003.2 OF 004

current political system.

¶10. (C) However, some senior figures in his Democrat Party (DP) have signaled reluctance to consider any moves in that direction, including former PM Chuan Leekpai, Abhisit's patron, who appears to have greater influence in the Democrat Party than Abhisit, and Abhisit's predecessor as DP Party Leader, Banyat Bantadtan. Banyat has spoken pessimistically about the prospect of constitutional reform. Other leading Democrats appear to prefer that, if the legislature does amend the constitution, it do so at a slow and deliberate pace.

¶11. (C) The reluctance of some Democrats to proceed with political reform may reflect concern that constitutional amendment may jeopardize the Democrats' hold on political power. There is a widespread presumption that the Prime Minister should dissolve the House of Representatives following constitutional amendment, enabling elections under the new system; Abhisit himself suggested in early May that elections might occur within 6-8 months if the constitution is amended. The DP is currently the second-largest political party in the House, with slightly fewer seats than the pro-Thaksin Puea Thai Party (170 to 182). Allowing disenfranchised politicians formerly associated with Thaksin to formally reenter the political arena could enable other parties to gain at Democrats' expense, and it is unclear whether the Democrats could replicate their December 2008 success in forming the current coalition government.

PAD OPPOSES AMENDMENT, MULLS TURNING ITSELF INTO A PARTY

¶12. (C) Leading figures from the People's Alliance for Democracy (PAD), as well as figures behind the 2006 coup and

2007 Constitution, such as former FM Prasong Sunsiri, have publicly denounced any possible amnesty and opposed prospective constitutional reform. Their opposition appears to stem from concern that amendment entails amnesty for disenfranchised politicians, which risks empowering Thaksin. PAD's own intentions going forward remain unclear; a May 24-25 national gathering is expected to decide whether PAD transforms itself from a movement into a formal political party prepared to contest the next national election.

AMENDMENT DOES NOT SOLVE EVERYTHING

¶13. (C) If Thailand's political class becomes absorbed in constitutional reform and the process appears headed towards a successful compromise, the national mood could become more constructive, although there is always a risk of street demonstrations -- both yellow and red -- focused on constitutional issues. Even constitutional reform with widespread support would appear unlikely to resolve all fundamental sources of tension in Thai society, however. Important issues that we expect to remain unresolved by constitutional reform efforts include:

- THE ROLE OF THE MONARCHY: There is substantial uncertainty about the future of the monarchy after the death of 82-year-old King Bhumibol, who has long been in ill health. It is unlikely that after the King dies the monarchy and its staunch loyalists will be able to retain the prestige and influence that they currently enjoy.
- THE ROLE OF THAKSIN: Although Thaksin is among the politicians disenfranchised by the May 2007 Constitutional Court ruling against Thai Rak Thai, he falls into a unique category and faces additional criminal charges. Many royalists believe that Thaksin poses an existential threat and that he will continue to use his substantial prestige and financial resources to subvert the monarchy. Thaksin's recent public calls for "revolution" (ref A) did nothing to dispel such concerns.
- CLASS AND REGIONAL DIVISIONS: Recent analysis by the State Department's Office of Opinion Research (ref D) found two major cleavages among Thai: economic and geographic. Thaksin

BANGKOK 00001157 004.2 OF 004

had majority support among Thailand's poor as of early 2009, while the well-off tended to support Abhisit. The starkest division was geographic, with Thaksin's strong northeastern support offset by the South's affinity for Abhisit. The recent riots in Bangkok have likely exacerbated divisions, with many Thais who are sympathetic to Thaksin believing that the authorities have concealed anti-government protesters' deaths and injuries.

- PERCEPTIONS OF (IN)JUSTICE: Both supporters of Thaksin and a number of independent academics have also noted an apparent disparity between legal treatment of the PAD leaders who occupied Bangkok's airports in late 2008 and of the top pro-Thaksin activists charged with incitement to riot in the April protests in Pattaya and Bangkok. Abhisit has pledged even-handed application of justice, but we believe Thaksin loyalists will remain skeptical unless/until PAD leaders go on trial.

JOHN